

## HOUSE BILL NO. 9

INTRODUCED BY SONJU

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A REFUND OF UP TO A TOTAL OF \$400 OF 2006 MONTANA PROPERTY TAXES PAID BY A TAXPAYER OR TAXPAYERS ON THE RESIDENCE THAT THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING 2006 AND OF CERTAIN 2005 AND 2004 MONTANA PROPERTY TAXES PAID ON THE PRINCIPAL RESIDENCE; PROVIDING THE PROCEDURE FOR ESTABLISHING ENTITLEMENT TO THE REFUND AND THE PERIOD WITHIN WHICH THE ENTITLEMENT MUST BE ESTABLISHED; ALLOWING A REFUNDABLE INCOME TAX CREDIT FOR THE AMOUNT OF PROPERTY TAXES PAID ON \$20,000 OF MARKET VALUE OF A PRINCIPAL RESIDENCE ATTRIBUTABLE TO THE 95-MILL STATEWIDE LEVIES TO FUND SCHOOLS; PROVIDING APPROPRIATIONS; AMENDING ~~SECTION~~ SECTIONS 15-1-201 AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Montana property taxes" means the ad valorem property taxes imposed on property classified under 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that were assessed in the specified calendar year.

(2) "Owned" includes purchasing under a contract for deed, OWNING 20% OR MORE OF THE SHARES OR OTHER MEMBERSHIP INTERESTS OF AN ENTITY THAT OWNS A RESIDENCE, and being the grantor or grantors under a trust indenture.

NEW SECTION. **Section 2. Property tax refund -- manner of claiming -- limitations -- appropriation.** (1) (a) A refund of up to \$400 of 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months during 2006 may be claimed as provided in subsection (2), subject to the limitations provided in

1 subsection (3).

2 (b) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence  
3 that they owned and occupied as their principal residence for at least 7 months during 2006 were more than \$25  
4 and less than \$400, a refund of the 2005 Montana property taxes assessed to and paid by the taxpayer or  
5 taxpayers on the principal residence, if they owned and occupied it as their principal residence for at least 7  
6 months during 2005, may be claimed as provided in subsection (2), subject to the limitations provided in  
7 subsection (3), in an amount that together with the refund under subsection (1)(a) does not exceed \$400.

8 (c) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence  
9 that they owned and occupied as their principal residence for at least 7 months during 2006, together with the  
10 2005 Montana property taxes allowed as a refund under subsection (1)(b), were more than \$50 and less than  
11 \$400, a refund of the 2004 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the  
12 principal residence, if they owned and occupied it as their principal residence for at least 7 months during 2004,  
13 may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3), in an amount  
14 that together with the refund under subsections (1)(a) and (1)(b) does not exceed \$400.

15 (2) (a) Subject to subsection (2)(b), the claim for refund, in the form that the department prescribes, must  
16 be executed by each taxpayer under penalty of false swearing and must include the information that the  
17 department requires.

18 (b) The personal representative of the estate of a deceased taxpayer may execute and file the claim for  
19 refund on behalf of a deceased taxpayer who qualifies for the refund.

20 (3) The claim for a refund is subject to the following limitations:

21 (a) The claim must be filed with the department of revenue on or before December 31, 2007, unless the  
22 department, for good cause shown, grants a reasonable extension of time for filing.

23 (b) Only one claim may be made with respect to any property.

24 (c) The claims by a taxpayer or taxpayers for 2006, 2005, and 2004 must be for the same property.

25 (4) The payment of property tax refunds under this section is statutorily appropriated, as provided in  
26 17-7-502, from the general fund to the department of revenue for distribution to taxpayers.

27

28 **NEW SECTION. Section 3. Property tax refund -- penalty for false or fraudulent claim.** A person  
29 who files a false or fraudulent claim for a property tax refund under [section 2] is subject to criminal prosecution  
30 under the provisions of 45-7-202. If a false or fraudulent claim has been paid, the amount paid may be recovered

1 as any other tax owed the state, together with a penalty of 25% and interest on the amount of the refund at the  
2 rate of 12% a year, until paid.

3  
4 **SECTION 4. SECTION 15-1-201, MCA, IS AMENDED TO READ:**

5 **"15-1-201. Administration of revenue laws.** (1) (a) The department has general supervision over the  
6 administration of the assessment and tax laws of the state, except Title 15, chapters 70 and 71, and over any  
7 officers of municipal corporations having any duties to perform under the laws of this state relating to taxation to  
8 the end that all assessments of property are made relatively just and equal, at true value, and in substantial  
9 compliance with law. The department may make rules to supervise the administration of all revenue laws of the  
10 state and assist in their enforcement.

11 (b) In the administration of any tax over which it has general supervision, the department may require  
12 all individuals subject to the tax laws of the state to provide to the department the individual's social security  
13 number, federal employee identification number, or taxpayer identification number.

14 (b)(c) The department may contract with the U.S. department of the interior or any other federal agency  
15 to perform federal royalty audits, collection services, and any other delegable functions related to mining  
16 operations on federal lands within the state pursuant to the Federal Oil and Gas Royalty Simplification and  
17 Fairness Act of 1996.

18 (e)(d) The department shall adopt rules specifying which types of property within the several classes are  
19 considered comparable property as defined in 15-1-101.

20 (d)(e) The department shall also adopt rules for determining the value-weighted mean sales assessment  
21 ratio for all commercial and industrial real property and improvements.

22 (2) The department shall confer with, advise, and direct officers of municipal corporations concerning  
23 their duties, with respect to taxation, under the laws of the state.

24 (3) The department shall collect annually from the proper officers of the municipal corporations  
25 information, in a form prescribed by the department, about the assessment of property, collection of taxes,  
26 receipts from licenses and other sources, expenditure of public funds for all purposes, and other information as  
27 may be necessary and helpful in the work of the department. It is the duty of all public officers to fill out properly  
28 and return promptly to the department all forms and to aid the department in its work. The department shall  
29 examine the records of all municipal corporations for purposes considered necessary or helpful."  
30

1           **Section 5.** Section 17-7-502, MCA, is amended to read:

2           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
3       appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
4       need for a biennial legislative appropriation or budget amendment.

5           (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
6       of the following provisions:

7           (a) The law containing the statutory authority must be listed in subsection (3).

8           (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory  
9       appropriation is made as provided in this section.

10          (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407;  
11       5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121;  
12       15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369;  
13       15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319;  
14       19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107;  
15       20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306;  
16       23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504;  
17       44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;  
18       75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161;  
19       87-1-513; 90-1-115; 90-1-205; 90-3-1003; ~~and 90-9-306; and [section 2].~~

20          (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
21       paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
22       pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
23       to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
24       treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
25       appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of  
26       15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L.  
27       1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's  
28       unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates  
29       July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion  
30       of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202,

23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010.)"

**NEW SECTION. Section 6. Refundable income tax credit -- statewide equalization property tax levies on principal residence -- rules.** (1) (a) There is a credit against the tax imposed by this chapter, which is calculated by multiplying the amount of property taxes imposed and paid on a property taxpayer's principal residence under 20-9-331, 20-9-333, and 20-9-360 on \$20,000 of market value on the residence times the relief multiple.

(b) (i) As used in subsection (1)(a), the relief multiple is a number used to change the amount of tax relief allowed under this section. The relief multiple is 0. Each interim, the revenue and transportation interim committee shall, based upon actual and projected state revenue and spending and any other appropriate factors, determine if a change in the relief multiple is justified. If a change is justified, the committee shall request a bill to change the relief multiple.

(ii) The department of administration shall certify to the budget director on August 1, 2007, the amount of unaudited general fund revenue received in fiscal year 2007 as recorded when the fiscal year 2007 statewide accounting, budgeting, and human resources system records are closed in July 2007. Fiscal year 2007 is the period from July 1, 2006, to June 30, 2007. General fund revenue is as recorded in the statewide accounting, budgeting, and human resources system using generally accepted accounting principles in accordance with 17-1-102(2). If the unaudited general fund revenue received in fiscal year 2007 exceeds \$1,802,000,000, for each \$1,000,000 greater than \$1,802,000,000, the factor in subsection (1)(b)(i) must increase by 0.1 for tax year 2007 only.

(2) As used in this section, "principal residence" means a class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding ~~5 acres~~ 1 ACRE, as is reasonably necessary for its use as a dwelling and that is occupied by the owner for at least 7 months during the tax year.

(3) Only one claim may be made with respect to any property.

(4) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even if the claimant has no income taxable under this chapter.

(5) The department may adopt rules to implement and administer this section.

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2           NEW SECTION. **Section 7. Appropriation.** There is appropriated to the department of revenue

3   \$1,028,863 from the general fund for the administration of the property tax refund provided in [section 2] for the

4   2009 biennium.

6 NEW SECTION. Section 8. Codification instruction. [Section 5 6] is intended to be codified as an  
7 integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 5  
8 6].

10 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

12 NEW SECTION. **Section 10. Termination.** [Section 4 5] terminates July 1, 2008.

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